

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BILLA SINGH,

Petitioner,

v.

ORDER
10-CV-462S

JANET NAPOLITANO, ET AL.,

Respondents.

1. On June 4, 2010, Petitioner filed a Petition for Writ of Habeas Corpus; Complaint for Declaratory Judgment, injunctive relief, and Writ of Mandamus; and a Request for a Temporary Restraining Order or Preliminary Injunction. (Docket No. 1.)

2. Petitioner's request for a Temporary Restraining Order or Preliminary Injunction seeks a stay of his removal from the United States. Because the standards for a temporary restraining order or preliminary injunction are not met, this Court will treat the request as a Motion to Stay Petitioner's removal. See Nken v. Holder, ___ U.S. ___, 129 S.Ct. 1749, 1758-59, 173 L.Ed.2d 550 (2009) (holding that request to prevent removal from the United States to allow for judicial review is a request to stay, rather than a request for injunctive relief).

3. Upon preliminary review, this Court finds that Petitioner has made a sufficient showing that (1) he is likely to succeed on the merits; (2) he will be irreparably injured absent a stay; (3) a stay will not substantially injure Respondents; and (4) a stay is not against the public's interest. See id. at 1761 (discussing the four-factor standard for a stay of removal); Barclays Capital, Inc. v. Theflyonthewall.com, No. 06 Civ. 4908, 2010 WL 1005160, at *1 (S.D.N.Y. May 7, 2010) (Opinion Denying Stay or Modification of Injunction)

(discussing stay standard).

4. Accordingly, this Court will Order that Petitioner's removal from the United States be preliminarily stayed pending final resolution of Petitioner's Motion to Stay after Respondents have had the opportunity to respond.

IT HEREBY IS ORDERED, that Petitioner's request to stay his removal from the United States is preliminarily GRANTED. The government shall not remove Petitioner from the United States until further Order of this Court.

FURTHER, that Respondents shall file a response to Petitioner's request for a stay by June 17, 2010. If Respondents do not contest the entry of the stay, they shall so state by June 17, 2010.

FURTHER, that Petitioner may file and serve a reply on or before June 24, 2010.

FURTHER, that oral argument will be scheduled by separate order if deemed necessary by this Court.

SO ORDERED.

Dated: June 10, 2010
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Court